

REMARKS

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

Claims 103, 104, 107, 108, 110, and 111 are pending. Claims 103, 104, 107, 108, and 111 are amended. The amendments to claims 103 and 107 find support in original claim 105, paragraph [0049], and Table 1 of the present application. No new matter is added.

The rejection of claims 103, 107, and 110-111 under 35 U.S.C. § 112 (1st para.) for lack of written descriptive support is respectfully traversed in view of the above amendments.

The rejection of claims 103, 107, and 110-111 under 35 U.S.C. § 102(b) for anticipation by U.S. Patent No. 6,211,437 to Briggs et al. ("Briggs") is respectfully traversed.

Briggs discloses genes from maize encoding proteins that suppress plant cell death and methods of transformation therewith. In particular, Briggs describes proteins (ring-hydroxylating dioxygenases) that act to control cell death and regulate disease resistance in plants.

The U.S. Patent and Trademark Office ("PTO") has interpreted "the amino acid sequence spanning a C-terminus of SEQ ID NO:2" limitation in claim 103 as covering "all the way down to a single amino acid within the C-terminus of SEQ ID NO:2." *See* Office Action at page 4. Based apparently on this interpretation, the PTO rejected the claims as anticipated by Briggs which allegedly teaches "some of the same 'C-terminus' amino acids of SEQ ID NO:2 of the instant invention." Although Applicants do not agree that a C-terminus of SEQ ID NO:2 encompasses as few as one amino acid, this rejection is overcome by the above amendments to claim 103.

Further, Briggs fails to teach a method of inhibiting programmed cell death in a plant or yeast eukaryote. The method comprises administering to the plant or yeast eukaryote a bacterial effector protein which inhibits programmed cell death, where the protein comprises either: (1) the amino acid sequence of SEQ ID NO: 2; (2) an amino acid motif of SEQ ID NO: 2 selected from the group consisting of the motif of SEQ ID NO: 9, the motif of SEQ ID NO: 10, the motif of SEQ ID NO: 11, the motif of SEQ ID NO: 12, the motif of SEQ ID NO: 13, the motif of SEQ ID NO: 14, the motif of SEQ ID NO: 15, the motif of SEQ ID NO:16, the motif of SEQ ID NO: 17, the motif of SEQ ID NO: 18, the motif of SEQ ID NO: 19, the motif of SEQ ID NO:20, the motif of SEQ ID NO: 21, the motif of SEQ ID NO: 22, the motif of SEQ ID NO: 23, and combinations thereof; or (3) the amino acid sequence spanning amino acids 308 and 553 of SEQ ID NO: 2.

For these reasons, the rejection of claims 103, 107, and 110-111 over Briggs is improper and should be withdrawn.

The preliminary objection to claim 111 under 37 C.F.R. § 1.75 for being substantially duplicative of claim 110 is respectfully traversed in view of the above amendments.

In view of all of the foregoing, it is submitted that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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